

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

| | | |
|---------------------------------|---|------------------------------------|
| UNITED STATES OF AMERICA |) | |
| |) | |
| vs. |) | CRIMINAL ACTION 09-00006-KD |
| |) | |
| MELISSA B. GRAY, |) | |
| |) | |
| Defendant. |) | |

ORDER

Previously, on motion of the defendant Melissa Gray, the Court ordered a psychological examination to determine Gray's mental competency to stand trial (docs. 47, 50). The evaluation was completed at the Metropolitan Correctional Center, in Chicago, Illinois and a Forensic Report was submitted to the Court on August 13, 2009 (doc. 51). On August 19, 2009, the undersigned held a hearing pursuant to the provisions of 18 U.S.C. § 4247(d) to determine whether Gray is competent to stand trial. Defendant Gray, her defense counsel Neil Hanley, and Assistant United States Attorney John Cherry, standing in for Assistant United States Attorney Sean Costello, counsel for the Government, were present.

A defendant shall be considered competent to stand trial if found to have "sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding" and "a rational as well as factual understanding of the proceedings against him." Dusky v. United States, 362 U.S. 402, 402, 80 S.Ct. 788, 789 (1960); Adams v. Wainwright, 764 F.2d 1356, 1359-60 (11th Cir.1985), cert. denied, 474 U.S. 1073, 106 S.Ct. 834 (1986); see also Godinez v. Moran, 509 U.S. 389, 401 n.12, 113 S.Ct. 2680, 2687 (U.S. 1993) ("the question is whether [the defendant] has the ability to understand the proceedings.").

Upon consideration, the Court adopts the findings of the Forensic Report and finds by a

preponderance of the evidence that defendant Gray has sufficient present ability to consult with her attorney with a reasonable degree of rational understanding and that she is able to understand the nature and consequences of the proceedings against her. Therefore, she is competent to stand trial. See 18 U.S.C. § 4241(e).

Accordingly, the trial schedule is set as follows:

TRIAL. This action is set for trial during the **October 2009** criminal term. Jury selection is scheduled for **8:45 a.m. on Monday, October 5, 2009.**

PRETRIAL CONFERENCE. This matter is referred to the appropriate Magistrate Judge to reschedule the pretrial conference.

DONE and **ORDERED** this the 19th of August, 2009.

/s / Kristi K. DuBose
KRISTI K. DuBOSE
UNITED STATES DISTRICT JUDGE